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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,721	01/10/2002	Gary Rottger	102114-3	6467
27388	7590	06/12/2006	EXAMINER	
NORRIS, MC LAUGHLIN & MARCUS 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022			SHEPARD, JUSTIN E	
		ART UNIT	PAPER NUMBER	
		2623		

DATE MAILED: 06/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/043,721	ROTTGER, GARY
	Examiner Justin E. Shepard	Art Unit 2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/25/02.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Objections***

Claims 2 and 4 are objected to because of the following informalities: The terms "supersonic" and "ultra high frequency" accepted definitions are not related to audio. Appropriate correction is required.

Claims 4-11 objected to because of the following informalities: The numbering is incorrect. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 9, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bowser in view of Bond.

Referring to claim 1, Bowser discloses an interactive television system for receiving transmitted embedded audio control signals comprising: a receiving unit including a decoder (figure 2, part 32), a micro processor (figure 2, part 28) and a signal display (figure 1, part 2), and wherein the receiving unit receives the transmitted signals (column 4, lines 16-18).

Bowser does not disclose a system wherein the transmitted signals are audio control signals.

Bond discloses a system wherein the transmitted signals are audio control signals (column 1, lines 21-24).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the audio control signals taught by Bond to the system disclosed by Bowser. The motivation would have been to enable that transmission of EPG data (Bowser: column 4, lines 16-18) without requiring any additional bandwidth (Bond: column 1, lines 29-32).

Referring to claim 2, Bowser discloses an interactive television system according to claim 1, a micro processor (figure 2, part 28) and an infra red transmitter for transmitting the embedded signals (column 4, lines 7-13).

Bowser does not disclose a system wherein the audio control signals are supersonic and decoded by a transmitter including a supersonic audio decoder.

Bond discloses a system wherein the audio control signals are supersonic and decoded by a transmitter including a supersonic audio decoder (column 1, lines 21-24; Note: it would have been inherent that data added to an audio signal would need a decoder at the receiver end to interpret the data).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the audio control signals taught by Bond to the system disclosed by Bowser. The motivation would have been to enable that transmission of EPG data

(Bowser: column 4, lines 16-18) without requiring any additional bandwidth (Bond: column 1, lines 29-32).

Referring to claim 3, Bowser and Bond do not disclose an interactive television system according to claim 2, wherein the transmitted infra red signal is received by an infra red decoder, a second microprocessor and a signal display, and wherein the receiving unit receives the transmitted signals.

Bowser discloses a system, which uses infrared signals to communicate with a PDA (column 4, lines 7-13).

The examiner takes Official Notice that it is notoriously well known in the art that a PDA with an infrared sensor would have a processor, infrared decoder and a display. At the time of the invention it would have been obvious for one of ordinary skill in the art to add a processor, infrared decoder, and display to the PDA disclosed by Bowser and Bond. The motivation for the PDA having a processor would have been that using a processor instead of a specially designed integrated circuit allows for the device to have lower manufacturing costs. The motivation for the PDA having an infrared decoder would have been that unless a device is programmed to decode the particular infrared signal, it would not understand them (example: using a remote from another television on your own television). The motivation for a PDA having a display would have been that displays are an efficient means for communicating data to a user.

Referring to claim 4, Bowser does not disclose an interactive television system according to claim 1, wherein the audio control signal is ultra high frequency and inaudible.

Bond discloses an interactive television system according to claim 1, wherein the audio control signal is ultra high frequency and inaudible (column 1, lines 21-24).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the audio control signals taught by Bond to the system disclosed by Bowser. The motivation would have been to enable that transmission of EPG data (Bowser: column 4, lines 16-18) without requiring any additional bandwidth (Bond: column 1, lines 29-32).

Referring to claim 5, Bowser and Bond do not disclose an interactive television system according to claim 1 , wherein the signal display is a LCD display.

The examiner takes Official Notice that at the time of the invention it would have been obvious for one of ordinary skill in the art to substitute an LCD display in for the display disclosed in Bowser.

The examiner takes Official Notice that it is notoriously well known in the art that an LCD is common type of display. At the time of the invention it would have been obvious for one of ordinary skill in the art to add an LCD display to the television disclosed by Bowser and Bond. The motivation would have been that LCD displays are smaller and lighter than their CRT counterparts.

Referring to claim 9, Bowser discloses an interactive television system according to claim 1, wherein the receiver unit is an infrared receiving personal digital assistant (column 4, lines 7-13).

Claim 13 is rejected on the same grounds as claim 9.

Claims 6, 7, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bowser in view of Bond as applied to the claims above, and further in view of Fong.

Referring to claim 6, Bowser and Bond do not disclose an interactive television system according to claim 1, wherein the signal display is a sound processor.

Fong discloses a interactive television system according to claim 1, wherein the signal display is a sound processor (column 7, lines 65-67; column 8, lines 1-6; column 5, lines 23-27).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the talking toy taught by Fong to the system disclosed by Bowser and Bond. The motivation would have been to allow the toy to interact with the television when certain programs are being aired.

Claim 10 is rejected on the same grounds as claim 6.

Referring to claim 7, Bowser and Bond do not disclose an interactive television system according to claim 1, wherein the receiver unit is formed as a toy.

Fong discloses an interactive television system according to claim 1 , wherein the receiver unit is formed as a toy (column 7, lines 65-67; column 8, lines 1-6; column 5, lines 23-27; figure 1).

At the time of the invention it would have been obvious for one of ordinary skill the art to add the talking toy taught by Fong to the system disclosed by Bowser and Bond. The motivation would have been to allow the toy to interact with the television when certain programs are being aired.

Claim 11 is rejected on the same grounds as claim 7.

Claims 8 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bowser in view of Bond as applied to claim 1 above, and further in view of Elliot.

Referring to claim 8, Bowser and Bond do not disclose a interactive television system according to claim 1 , wherein the receiver unit is a game.

Elliot discloses a interactive television system according to claim 1 , wherein the receiver unit is a game (column 3, lines 26-29 and 32-37).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the video game taught by Elliot to the system disclosed by Bowser and Bond. The motivation would have been to allow broadcasters to place special messages in the stream to have kids be able to view them on their Gameboys.

Claim 12 is rejected on the same grounds as claim 8.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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